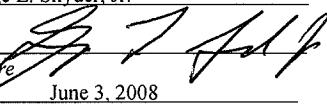


I hereby Certify that this Correspondence is being electronically transmitted to the United States Patent and Trademark Office on June 3, 2008.

George L. Snyder, Jr.

Name

Signature


June 3, 2008

Date of Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/536,567
Applicant(s) : Ulrich Sander
Filed : May 26, 2005
Title : Device For Optically Viewing A Stereoscopic Observation Beam Path
TC/A.U. : 2872
Examiner : Mark J. Consilvio
Docket No. : 33997.0115

**LETTER IN REPLY TO SECOND NOTIFICATION
OF NON-COMPLIANT APPEAL BRIEF**

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to a second "Notification of Non-Compliant Appeal Brief" mailed May 22, 2008, applicant re-submits the Amended Appeal Brief previously filed in the USPTO on May 16, 2008.

The undersigned attorney and Examiner Consilvio conferred by telephone on June 2, 2008 regarding the requirements of 37 CFR 41.37(c)(1)(v). The undersigned took the position that separately argued claims 23 and 28 do not contain any "means plus function" or "step plus function" limitations as permitted under 35 USC 112, sixth paragraph, and therefore no

description of corresponding "structure, material, or acts described in the specification" is warranted by 37 CFR 41.37(c)(1)(v). See Amended Appeal Brief at page 3, third paragraph.

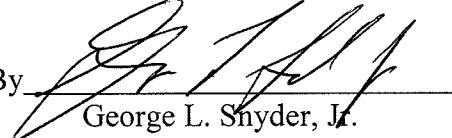
At the Examiner's helpful suggestion, the Amended Appeal Brief is re-submitted with this explanatory letter.

The Director is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account Number 08-2442.

Respectfully submitted,

HODGSON RUSS LLP

By



George L. Snyder, Jr.
Reg. No. 37,729

GLS/
Enc.

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DATED: June 3, 2008